

January 2011 Meeting Summaries

These are summaries of orders voted on by the Federal Energy Regulatory Commission at its January 20, 2011, public meeting. They are produced by the FERC Office of External Affairs and are intended to provide only a general synopsis of the orders. They are not intended as a substitute for the Commission's orders. To determine the specific actions and the Commission's reasoning, please consult the individual orders when they are posted to FERC's eLibrary.

FERC denies rehearing of order clarifying market-based rate affiliate restrictions

E-1, *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Docket No. RM04-7-009. The Commission denied the Edison Electric Institute's motion for stay or rescission and request for rehearing of an order addressing the Compliance Working Group's request for clarification of the market-based rate affiliate restrictions. The Commission determined that the clarification in the prior order that employees that determine the timing of scheduled outages, or that engage in economic dispatch, fuel procurement, or resource planning may not be shared is not a departure from Commission precedent. The order requires sellers to comply with the guidance provided in the clarification order within 90 days of the date of issuance of today's order.

FERC withdraws proposal to amend market-based rate affiliate restrictions

E-2, *Market-Based Rate Affiliate Restrictions*, Docket No. RM10-20-000. The Commission withdrew a notice of proposed rulemaking (NOPR). The NOPR proposed to amend the Commission's regulations governing market-based rates for public utilities to include language in the regulatory text stating that employees that determine the timing of scheduled outages or that engage in economic dispatch, fuel procurement or resource planning may not be shared under the market-based rate affiliate restrictions codified in Order No. 697. The Commission withdrew the NOPR because the current regulations are sufficient insofar as they already require employees of a market-regulated power sales affiliate to operate separately from the employees of any affiliated franchised public utility with captive customers, to the maximum extent practical.

FERC accepts service agreement between PacifiCorp and CEP Funding

E-5, *PacifiCorp*, Docket No. ER11-2170-000, *et al.* The Commission accepted a non-conforming service agreement for conditional long-term firm point-to-point transmission

service between PacifiCorp and CEP Funding, LLC (CEP) and a Notice of Cancellation for twelve unexecuted agreements for long-term conditional firm point-to-point transmission service. The Commission determined that the uncontested Service Agreement was just and reasonable because it enables PacifiCorp to accommodate CEP's request for transmission service in light of the operational realities of the transmission path at issue.

FERC rejects AEP's agreement to collect capacity costs

E-6, *American Electric Power Service Corporation*, Docket No. ER11-2183-000. The Commission rejected American Electric Power Service Corporation's (AEP) new rate schedules under Schedule 8.1 – Appendix to the PJM Interconnection, L.L.C. (PJM) Reliability Assurance Agreement (RAA), which were proposed to collect its Ohio utility operating companies' capacity costs for meeting the capacity obligation of the PJM Resource Procurement Model. The Commission concluded that, under the RAA, AEP was not permitted to seek such recovery given the existence of a state compensation mechanism.

FERC affirms grant of a limited waiver concerning the posting of deferred security

E-7, *Hudson Transmission Partners, LLC*, Docket No. ER10-1281-001. The Commission denied rehearing of an order in which the Commission granted Hudson Transmission Partners, LLC (HTP) a limited waiver of PJM Interconnection, L.L.C.'s tariff provision requiring the posting of deferred security for HTP's transmission project. The Commission, among other things, affirmed its prior determination that HTP's inability to comply with PJM's security requirement was attributable to factors beyond HTP's control and did not call into question HTP's good faith efforts to comply, affirmed its determination that the waiver was indeed of limited scope, and affirmed that the waiver would have no undesirable consequences.

FERC conditionally accepts a compliance filing concerning a Joint Operating Agreement between PJM and Carolina Power

E-8, *PJM Interconnection, L.L.C.*, Docket Nos. ER10-713-001 and ER10-713-002. The Commission conditionally accepted the compliance filing by PJM Interconnection, L.L.C. (PJM) and Carolina Power & Light Company (Carolina Power) concerning a Joint Operating Agreement (JOA) between PJM and Carolina Power, which governs the exchange of information and coordination of operations in matters that may affect congestion on either system; in response to the protests, the Commission found that the dynamic scheduling provisions and the make-whole provisions of the JOA as well as the

calculation of export prices to Carolina Power were reasonable. The Commission also granted a request for clarification that language in a previous order does not preclude a sub-area within a balancing authority area from electing a different interface pricing option as permitted by the PJM Open Access Transmission Tariff.

FERC conditionally approves Violation Risk Factor designations for Critical Infrastructure Protection Reliability Standards

E-11, *North American Electric Reliability Corporation*, Docket Nos. RD10-6-000 and RD09-7-002. The Commission approved the North American Electric Reliability Corporation's (NERC) proposed Violation Risk Factor (VRF) designations for Version 2 and Version 3 Critical Infrastructure Protection (CIP) Reliability Standards, subject to modifying the VRF for CIP-003-2 Requirement R2, which requires that there be a single senior manager responsible for implementation of, and compliance with, the CIP reliability standards. The Commission also reiterated that due to the changes in circumstances and evolution of the CIP Reliability Standards since the review and approval of the original CIP VRFs, a complete review of the VRFs for all CIP Reliability Standards may be warranted in the future.

FERC denies rehearing of order concerning NorthWestern's Attachment K filing

E-12, *NorthWestern Corporation*, Docket No. OA07-110-003. The Commission denied NorthWestern Corporation's (NorthWestern) request for rehearing of an order, which addressed NorthWestern's proposed Attachment C and Attachment K to its Open Access Transmission Tariff (OATT), as required by Order No. 890. The Commission affirmed its prior determination that NorthWestern's proposal to incorporate by reference into its OATT the Mid-Continent Area Power Pool available transfer capability calculations and to provide the URL for those procedures does not comply with requirements of Order No. 890. The Commission also denied rehearing of NorthWestern's claim that it complies with the local transmission planning requirements of Order No. 890.

FERC denies rehearing of Feed-In-Tariff Clarification Order

E-13, *California Public Utilities Commission, Southern California Edison Company, Pacific Gas and Electric Company and San Diego Gas & Electric Company*, Docket Nos. EL10-64-002 and EL10-66-002. The Commission denied requests for rehearing of its earlier Clarification Order, which clarified for the California Public Utilities Commission how the state can encourage development of new electricity generation resources in a way that does not conflict with federal laws and regulations. The

Commission found unpersuasive arguments objecting to the Commission's finding in the Clarification Order that the implementation of a multi-tiered avoided cost rate structure can be consistent with the avoided cost rate requirements set forth in the Public Utility Regulatory Policies Act of 1978 and the Commission's regulations.

FERC accepts inclusion of three new projects in SoCal Edison's CWIP ratemaking mechanism

E-14, *Southern California Edison Company*, Docket No. ER11-2178-000. The Commission accepted Southern California Edison Company's proposed tariff revisions, with modification, to include three new incentive projects in its Construction Work in Progress ratemaking mechanism. The three new projects are the Eldorado-Ivanpah Transmission Project, the Lugo-Pisgah Transmission Project and the Red Bluff Substation Project.

FERC conditionally accepts LGIA among Granite Wind, SoCal Edison and the CAISO

E-15, *Southern California Edison Company; California Independent System Operator Corporation*, Docket Nos. ER11-2177-000, ER11-2369-000. The Commission conditionally accepted a non-conforming Large Generator Interconnection Agreement (LGIA) among Southern California Edison Company (SoCal Edison), Granite Wind, LLC, and California Independent System Operator Corporation. The Commission conditionally accepted the LGIA, subject to the outcome of the proceeding in Docket No. EL11-10-000 regarding SoCal Edison's request for incentives and abandoned plant approval.

FERC addresses PJM's compliance filing concerning ongoing market reform initiatives

E-16, *PJM Interconnection, L.L.C.*, Docket No. ER11-2074-000. The Commission addressed a compliance filing addressing PJM Interconnection, L.L.C.'s (PJM) ongoing market reform compliance initiatives, as required by Order No. 719. The Commission directed PJM to make an additional compliance filing regarding the posting of capacity market bid and offer data and exemptions regarding the obligation of PJM's independent market monitor to refer suspected market violations to the Commission. In this order, the Commission required PJM to submit an additional compliance filing to change language to reflect that the IMM should not refer to the Commission any violation of a traffic ticket provision unless the wrongful behavior also constitutes a non-traffic ticket violation.

FERC denies rehearing of an order terminating the mandatory purchase obligation of the Public Service Company of New Hampshire

E-17, *Public Service Company of New Hampshire*, Docket No. QM10-4-004. The Commission denied rehearing of an earlier order which granted the Public Service Company of New Hampshire's (PSNH) request to terminate its mandatory purchase obligation pursuant to section 210(m) of the Public Utility Regulatory Policies Act of 1978 on a service territory-wide basis for qualifying facilities with a net capacity in excess of 20 MW effective January 7, 2010. In doing so in that earlier order, however, the Commission stated that any contract or legally enforceable obligation that may result from the action of the New Hampshire Public Utilities Commission (New Hampshire commission) on a petition filed by Clean Power Development, LLC (Clean Power) with the New Hampshire commission before PSNH sought termination of its mandatory purchase obligation would be grandfathered. On rehearing, in response to a concern about the meaning of the Commission's language regarding Clean Power, the Commission explained that, if the New Hampshire commission first decides that Clean Power has indeed followed proper state procedures, and that a contract or legally enforceable obligation results from the Clean Power petition, then that contract or legally enforceable obligation will be grandfathered and not subject to the termination order.

FERC revises financial forms to provide greater transparency as to natural gas fuel data

M-1, *Revisions to Forms, Statements, and Reporting Requirements for Natural Gas Pipelines*, Docket No. RM07-9-003. In this Final Rule, Commission approved revisions to natural gas financial forms designed to enhance the forms' usefulness by providing greater transparency as to reporting of fuel use data. Specifically, the Commission revised its financial forms, statements, and reports for natural gas companies, contained in FERC Form Nos. 2, 2-A, and 3-Q, to include functionalized fuel use data on pages 521a through 521c of those forms, and to include on those forms the amount of fuel waived, discounted or reduced as part of a negotiated rate agreement. The Commission also found that the fuel use information should be broken out on a monthly basis, as that will provide greater transparency.

FERC denies rehearing of order cancelling preliminary permit for the Claverack Creek project in New York

H-1, *Claverack Creek, LLC*, Project No. 13653-001. The Commission denied a request for rehearing by Claverack Creek, LLC of an order cancelling the preliminary permit for the proposed Claverack Creek project in Columbia County, New York for failure to file a required progress report. The Commission found that Claverack failed to establish that

the report was filed prior to the permit's cancellation and failed to provide good cause for not timely filing the report.

FERC denies rehearing of order denying request to transfer the license for the Swinging Bridge Project in Sullivan County, New York

H-2, *AER NY-Gen, LLC*, Project No. 10482-105. The Commission denied rehearing of an order that dismissed a request by AER NY-Gen, LLC (licensee), and Eagle Creek Hydro Power, LLC, Eagle Creek Water Resources, LLC, and Eagle Creek Land Resources, LLC (Eagle Creek Companies) to transfer the license for the Swinging Bridge Project, located on the Mongaup River in Sullivan County, New York. The Commission affirmed the denial of the transfer, finding that in light of the licensee's continued non-compliance regarding public access at the Toronto Dam Area, and in the absence of any substantial considerations to the contrary, dismissing the transfer application until issues regarding public access to the Toronto Dam Area are resolved is in the public interest.

FERC approves certificate amendment to permit Cameron LNG to export LNG

C-1, *Cameron LNG, LLC*, Docket No. CP10-496-000. The Commission granted authorization enabling Cameron LNG, LLC to use previously authorized facilities to re-export LNG which has previously been imported into the United States. The order concluded that no environmental or other sensitive resources will be adversely affected by the proposed export activities since no new facilities or modifications of existing facilities are required in order for Cameron LNG to export previously imported LNG.

FERC authorizes construction of additional compression facilities at the Stagecoach Storage Facility in New York and Pennsylvania

C-2, *Central New York Oil and Gas Company, LLC*, Docket No. CP10-194-000. The Commission issued a certificate to Central New York Oil and Gas Company, LLC, authorizing it to construct and operate additional compression and appurtenant facilities to increase the throughput capacity of the North and South Lateral pipelines at its Stagecoach Storage Facility in Tioga County, New York, and Bradford County, Pennsylvania, in order to provide a new firm wheeling service. The Commission determined that the economic benefits of the proposal outweigh any potential adverse impacts.

FERC accepts Golden Triangle's penalty provision

C-3, *Golden Triangle Storage, Inc.*, Docket No. CP07-414-002. The Commission granted rehearing of an order on Golden Triangle Storage's Inc.'s revisions to its pro forma tariff, allowing provisions specifying that Golden Triangle Storage Inc.'s market-based rates for interruptible services will be based on a customer's maximum contract quantities rather than units of service used. The Commission also determined that Golden Triangle Storage's proposed penalty provision is appropriate and reasonably designed to prevent arbitrage.

FERC approves revision to initial transportation rates for Golden Pass Pipeline

C-4, *Golden Pass Pipeline LLC*, Docket No. CP11-34-000. The Commission granted Golden Pass Pipeline LLC's request for authorization to revise its initial transportation rates to reflect increases in actual construction and other related costs, as well as make revisions to several components of its cost of service so that it can mitigate the rate increases that would otherwise result from the increase in construction and related costs for its pipeline that extends from the Golden Pass LNG import terminal in Texas into Louisiana.